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13 Attorneys for Plaintiffs

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 **K.C., by and through Erica C., her guardian, et
al.,**

Case No. C-05-4077 MMC

19 Plaintiffs,

20 vs.
**STIPULATION VACATING AND
CONTINUING CASE MANAGEMENT
CONFERENCE, INITIAL DISCLOSURE
DEADLINE AND PRELIMINARY
INJUNCTION HEARING DATE AND
~~PROPOSED~~ ORDER**

21 **JACK O'CONNELL**, in his official capacity as
22 Superintendent of Public Schools For the State of
California, et al.,

23 Defendants.

25 Honorable Maxine M. Chesney

1 WHEREAS the parties in this action (“Action”) have and continue to participate in voluntary
2 mediation in a good faith effort to achieve an informal resolution of the Action with the Honorable
3 Coleman Fannin (retired) serving as the mediator;

4 WHEREAS the parties assert that such mediation and continuing discussions have and
5 continue to be productive;

6 WHEREAS Plaintiffs have requested, and Defendants have agreed, that the case
7 management conference set for January 20, 2006, be continued by stipulation to March 3, 2006, and
8 that the Initial Disclosure and other deadlines set by the Court’s Order dated October 18, 2005
9 likewise be continued so that the parties can continue to negotiate a resolution of this matter in good
10 faith without the need to prepare a case management statement, rule 26(f) report and/or initial
11 disclosures or to participate in a case management conference;

12 WHEREAS the parties agree that submission of a Joint ADR Certification in this matter is
13 not warranted given the fact that the parties have already participated in one day of mediation and
14 have agreed to a second day of mediation;

15 WHEREAS Defendants have requested that the hearing of Plaintiffs’ motion for preliminary
16 injunction, originally noticed for December 9, 2005 and continued by stipulation to January 27,
17 2006, be vacated so that Defendants will not be placed in the position of having to prepare and file
18 opposition papers before the continuation of mediation or; and

19 WHEREAS Plaintiffs have consented to Defendants’ request in the interest of maximizing
20 the possibility of an informal settlement of this dispute with the assistance of Judge Fannin and as a
21 professional courtesy to Defendants’ counsel:

22 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the
23 parties to this Action, by and through their respective undersigned counsel, as follows:

- 24 1. Defendants hereby agree that they will not assert the delay of the hearing
25 pursuant hereto in any way as a ground for opposition to Plaintiffs’ motion for
26 preliminary injunction.
- 27 2. The parties agree that Defendants need not file a responsive pleading at this
28 time and will do so within 15 days after written notice by plaintiffs.

1 3. The hearing on plaintiffs' Motion for Preliminary Injunction currently set for
2 January 27, 2006, may be VACATED and a new hearing date may be set for
3 Friday March 3, 2006 or as soon thereafter as the matter can be heard.
4 4. The Court's Order of February 18, 2005, be amended to provide that the case
5 management conference be continued to March 3, 2006, or as soon thereafter
6 as the conference may be held, and that the last day to complete initial
7 disclosures or state an objection in Rule 26(f) Report, to file and serve a Case
8 Management Statement, and to file and serve a Rule 26(f) Report be
9 continued until February 24, 2006.
10 5. That the requirement that the parties submit a Joint ADR Certification to the
11 Court, as set forth in the Court's Order dated October 18, 2005 be VACATED
12 on the ground that mediation is ongoing.

13
14 DATED: January 4, 2006

15 REED SMITH LLP

16
17 By _____ /s/
18 James M. Wood
19 and
20 Attorneys for Plaintiffs

21 DISABILITY RIGHTS EDUCATION AND
22 DEFENSE FUND, INC.
23 Arlene Mayerson
24 Larisa Cummings
25 and
26 Attorneys for Plaintiffs

1 DATED: January 4, 2006

2
3 CALIFORNIA STATE DEPARTMENT OF
4 EDUCATION

5 By _____ /s/
6 Allan H. Keown
7 Gabriel C. Vivas
8 Marsha A. Bedwell
9 Michael E. Hersher
10 Defendants Jack O'Connell and California
11 Department of Education, the Board of Education,
12 and its members

13 DATED: January 4, 2006

14 EDRINGTON, SHIRMER & MURPHY

15 By _____ /s/
16 Peter P. Edrington
17 James Marzan
18 Attorneys for Defendants Douglas Gephart,
19 Fremont Unified School District, Board of Trustees
20 for the Fremont Unified School District and its
21 members

22 DATED: January 4, 2006

23 STUBBS & LEONE

24 By _____ /s/
25 Louis A. Leone, Esq.
26 Attorneys for Defendants San Ramon Valley
27 Unified School District and Robert Kessler, Board
28 of Trustees of San Ramon Valley Unified School
District and its members

29 **Concurrence in the filing of this document has been obtained from each signatory.**

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ORDER

Pursuant to Stipulation of the parties, it is the order of the Court that:

(1) The hearing of Plaintiffs' Motion for Preliminary Injunction, currently set for January 27, 2006, be VACATED, and that the matter be heard on March 3, 2006 at 9:00 a.m.

(2) The Initial Case Management Conference, currently set for January 20, 2006, be VACATED, and that the conference be held on March 3, 2006 at 9:00 a.m.

(3) The deadlines set forth in the Court's October 18, 2005 Order Setting Initial Case Management Conference relating to (i) the last day to complete initial disclosures or state an objection in Rule 26(f) Report, (ii) the last day to file and serve the parties' Case Management Statement, and (iii) the parties' last day to file and serve their Rule 26(f) Report, be VACATED and that such deadlines be continued until February 24, 2006.

(4) The parties be relieved of any obligation to file a Joint ADR Certification with Stipulation to ADR process or Notice of Need for ADR Phone Conference in light of their ongoing mediation efforts.

IT IS SO ORDERED.

DATED: January 5, 2006.

By Maxine M. Chesney

Judge of the United States District Court